

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION

ARMANDO MADRID,  
Institutional ID No. 01425800  
SID No. 01581442

Plaintiff,

v.

No. 1:21-CV-00019-H

CHERRY K. GRAF, *et al.*,

Defendants.

**ORDER ACCEPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation that this case be dismissed with prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and repeated failure to obey an order of this Court. Plaintiff filed objections.

“The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); *see* 28 U.S.C. § 636(b)(1). In contrast, the district judge reviews any unobjected-to findings, conclusions, and recommendations for plain error. The Court has examined the record and reviewed the unobjected-to portions of the FCR for plain error and, finding none, expressly accepts and adopts those portions of the Magistrate Judge’s findings, conclusions, and recommendation.

Additionally, in light of Plaintiff’s specific objections, the Court has conducted a de novo review of the relevant portions of the FCR and the record in this case. In his objections, Plaintiff explains that he is receiving medical treatment that makes litigating his case a challenge and asks for additional opportunities to further develop his claims. But the

record reflects that Plaintiff received multiple opportunities to participate in his case and still failed to do so—in one case even refusing to participate in a scheduled *Spears* hearing. Thus, the Court overrules the objections and accepts and adopts the findings, conclusions, and recommendation of the United States Magistrate Judge.<sup>1</sup>


The Court therefore orders:

1. Plaintiff's complaint is dismissed with prejudice for under Federal Rule of Civil Procedure 41(b) for failure to prosecute and repeated failure to obey an order of this Court.

2. All relief not expressly granted, and any pending motions are denied.

Judgment will be entered accordingly.

So ordered on September 25, 2023.



James Wesley Hendrix  
United States District Judge

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<sup>1</sup> Additionally, the Court has learned from TDCJ Classification that Plaintiff passed away on July 29, 2023.